

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 47 of 2024

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THE CHAMUNDA COTTON SALES CO-OPERATIVE SOCIETY LTD.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR. PRAKASH JANI, SENIOR COUNSEL WITH SHIVANG P JANI(8285)
for the Applicant(s) No. 1

for the Opponent(s) No. 2,3

MS HETAL PATEL, ASST.GOVERNMENT PLEADER/PP for the Opponent(s)
No. 1

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL**

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/08/2024

ORAL ORDER

**(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

[1] Three issues are being raised in the present petition filed in the nature of Public Interest Litigation pertaining to the implementation of the provisions of the Gujarat Co-operative Societies Act, 1961 (for short as the Act, 1961).

[2] The first issue is pertaining to the implementation of Section 76 of the Act 1961, which empowers the State Government to provide for qualification, conditions of service, staff schedule, procedure of recruitment for appointment of Manager, Secretary,

Accountant or any other officer or employee of all urban co-operative banks, federal societies and specified co-operative societies as referred in Section 74C excluding the societies of the co-operative credit structure. It is brought on record that there are around 350 specified co-operative societies, 186 Urban Co-operative Societies including others, in total 81,468 Co-operative Societies are operating in the State of Gujarat as on 31.03.2020 wherein approximately 3,00,000 employees are working as on date.

[3] The submission is that the requirement of Section 76 for providing the qualification etc., is to maintain the standards of the services in such co-operative societies. Till date, no notification has been issued by the State Government complying with the requirement of Section 76. The result is that different co-operative societies are engaging their staff in an indiscriminate manner, as per their wish and will, resulting in engagement of unqualified and incompetent staff and exercising the unfettered powers in the matter of regulating the conditions of service of such staff.

[4] The second issue is with regard to the constitution of the State Co-operative Council as prescribed under Section 156 of the Act, 1961. The attention of the Court is invited to Sub-section (3) of Section 156 to impress upon that the functions of the State Co-operative Council is of significant importance in the matter of regulating the affairs of the Co-operative Societies registered under the Co-operative Societies Act, 1961. It is submitted that though the constitution of the State Co-operative Council has been notified

around 10 to 12 years back, but there is no notification of the current constitution of the Council. The petitioner has also raised apprehension about the council, if exist, holding regular meetings to discharge its functions.

[5] The last issue is with regard to the exercise of power under Section 156 A. It is submitted by the learned Senior Counsel appearing for the petitioners that though as per the information received by the petitioner, some executive instructions have been issued by the State Government in directing the societies to make purchase by filing an e-tender process, but there is no notification in the official gazette, which would bind all such co-operative societies.

[6] The answers to these three issues shall be placed before us by the Registrar, Co-operative namely the Respondent No.3 by filing his personal affidavit in the Court on the next date fixed.

Put up the matter on **30.08.2024**.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SAHIL S. RANGER